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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF TULARE
COUNTY,

Respondent.

GUY EDWARD CHAMBERS,

Real Party in Interest

F058874

(Super. Ct. No. VCF228309)

OPINION

ORIGINAL PROCEEDING; petition for writ of prohibition and/or mandate.

James W. Hollman, Judge.

Phillip J. Cline, District Attorney, and John F. Sliney, Deputy, for Petitioner.

No appearance for Respondent.

Michael Sheltzer, Public Defender, for Real Party in Interest.

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Real party in interest Guy Edward Chambers was charged with 18 counts of vandalism (Pen. Code, § 594), one count of receiving stolen property (Pen. Code, §496), and one count of leaving the scene of a vehicular accident (Veh. Code, § 20002). Chambers was 19 years old at the time of the alleged crimes, but police reports of the alleged incidents (many of which appear to involve hurling rocks at cars and building windows, and propelling small metal objects with a slingshot) mention participation of three minors in the alleged events. The People provided Chambers's counsel with the police reports, but redacted the names of the three juveniles. The reports show that the minors spoke to police investigators about the alleged incidents. The defense knows the identities of the three minors, but because the names of the minors have been redacted from the reports, the defense cannot discern from the redacted reports which minor made each such statement. The defense requested unredacted reports. The People refused to provide them on the authority of Welfare and Institutions Code section 827, which the People contend requires them to refrain from disclosing the names of the minors without a juvenile court order permitting such disclosure.

Chambers moved for an order to compel discovery of the unredacted reports. The court granted the motion and ordered the People to provide unredacted reports to the defense. The People petitioned this court for relief. This court issued an order staying the superior court's order, and issued an order to show cause.

WELFARE AND INSTITUTIONS CODE SECTION 827

Welfare and Institutions Code section 827, subdivision (a)(4) states:

“A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a

criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.”

Chambers contended in superior court, and contends here, that the defense is not seeking any portion of a “juvenile case file.” Were we writing on a clean slate, we might well agree with that argument. Indeed, the definition of “juvenile case file” in the statute itself would support it. (See Welf. & Inst. Code, § 827, subd. (e); see also Cal. Rules of Court, rule 5.552(a).) We do not know whether any juvenile court proceedings involving any or all of the minors have been instituted. Thirty-nine years ago, however, in *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767, the California Supreme Court stated:

“Welfare and Institutions Code section 827 reposes in the juvenile court control of juvenile records and requires the permission of the court before any information about juveniles is disclosed to third parties by any law enforcement official. The police department of initial contact may clearly retain the information that it obtains from the youths’ detention, but it must receive the permission of the juvenile court pursuant to section 827 in order to release that information to any third party, including state agencies. Police records in this regard become equivalents to court records and remain within the control of the juvenile court. [Citation.]” (*T.N.G. v. Superior Court, supra*, 4 Cal.3d at pp. 780-781, fn. omitted.)

In *Westcott v. County of Yuba* (1980) 104 Cal.App.3d 103, several juveniles were involved in an episode investigated by the police. The mother of one of the juveniles wished to obtain the police records for use in a civil proceeding she instituted against one or more of the other juveniles. She obtained a declaratory judgment compelling release of the records without a juvenile court order. The County appealed and the appellate court reversed.

“Section 827 of the Welfare and Institutions Code expressly covers the confidentiality of juvenile court records and their release to third parties, and is controlling over the Public Records Act to the extent of any conflict.

“Plaintiff argues that section 827 is inapplicable asserting it only relates to documents filed pursuant to a juvenile court hearing and in this instance no such proceedings are pending or foreseen. She is wrong. In *T.N.G. v. Superior Court, supra*, 4 Cal.3d 767, however, the scope of

section 827's confidentiality requirement was determined to include police reports pertaining to minors who were not involved in juvenile court proceedings but had merely been temporarily 'detained.'" (*Westcott v. County of Yuba, supra*, 104 Cal.App.3d at p.106, fn. omitted.)

Nothing of significance has changed. (See *Lorenza P. v. Superior Court* (1988) 197 Cal.App.3d 607, 610-611; see also *In re Keisha T.* (1995) 38 Cal.App.4th 220, 231-232; *In re Elijah S.* (2005) 125 Cal.App.4th 1532, 1541-1543; and *R.S. v. Superior Court* (2009) 172 Cal.App.4th 1049, 1053-1056.)¹ As recently as 2006 our California Supreme Court stated:

“ ... [W]ith certain exceptions not applicable here, juvenile case files are confidential by operation of law, and inspection thereof is limited to certain enumerated individuals and/or agencies. (See Welf. & Inst. Code, §§ 827, 828; Cal. Rules of Court, rule 1423(a), (b).) Neither defendant nor his counsel fall into any category of individuals and/or agencies authorized to inspect Rojas's juvenile case files without prior authorization to inspect them ordered by the juvenile court presiding judge or a judicial officer designated by the juvenile court presiding judge. (Cal. Rules of court, rule 1423(b).) Notwithstanding the fact that the trial court in this case released to counsel two juvenile petitions involving Rojas, the court did not abuse its

¹ Welfare and Institutions Code section 827 formerly described the protected documents as “a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his report, or to the judge, referee, or other hearing officer.” (See *Wescott v. County of Yuba, supra*, 104 Cal.App.3d at p. 106, fn. 2.) In 1999 the statute was amended to denominate the protected documents as the “juvenile case file” (Welf. & Inst. Code, § 827, subd. (e); see Stats. 1999, c. 996 (S.B. 334) and Stats. 1999, c. 984 (S.B. 199)), but that term is still similarly defined to include “a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer” (Welf. & Inst. Code, § 827, subd. (e).) Nothing in the legislative history of the amendment suggests that the rewording of the statute was intended to overrule *T.N.G.* or to otherwise exclude police reports on juveniles from the scope of the statute's protection. Police reports involving juveniles became “equivalents to court records” under *T.N.G.*, *supra*, 4 Cal.3d at p. 781, and the post-amendment decisions have considered such reports to remain so now that court records are protected as part of the “juvenile case file.” (See also *Cimarusti v. Superior Court* (2000) 79 Cal.App.4th 799, 804, fn. 1.)

discretion in withholding the remainder of Rojas's juvenile records because counsel did not obtain prior authorization by the juvenile court presiding judge, or a judicial officer designated by the juvenile court presiding judge, to inspect them." (*People v. Avila* (2006) 38 Cal.4th 491, 606-607.)

There are many reasons for the peculiar evolution of legal standards and allocations of responsibility. While we might on our own conclude that the discretion of one superior court judge is of equal weight to that of another superior court judge, the result in this case is driven by statute. Real party's remedy is to obtain juvenile court authorization for inspection of the unredacted police reports. Upon a proper showing, real party may obtain that authorization. (*Foster v. Superior Court* (1980) 107 Cal.App.3d 218.)

DISPOSITION

Let a writ of mandate issue directing the superior court to vacate its November 12, 2009 order compelling petitioner to turn over the unredacted police reports. The superior court is directed to enter an order denying real party's motion to compel discovery of the unredacted reports without prejudice to application being made by real party to the juvenile court in accord with the views expressed herein.

Ardaiz, P.J.

WE CONCUR:

Levy, J.

Gomes, J.